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Utah

MONDAY MARCH 16, 1998

CLASSIFIEDS

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BLM to Brothers: Get Out

Agency Says There's Not Enough Gold for Profit, So Pair Must Dump Claim

BY CHRISTOPHER SMITH

THE SALT LAKE TRIBUNE

After nearly two years of extensive testing, the Bureau of Land Management has determined there is not enough gold in Westwater Canyon to allow two brothers to keep their mining claim in the popular recreation spot along the Colorado River.

Ron and Ray Pene have maintained they have struck gold in the scenic canyon about 40 miles northeast of Moab, estimating the riches at between \$5 million and \$700 million.

But a long-awaited scientific analysis of the claim's mineral content and the economic viability of mining

the claim has been completed. And, at best, the BLM says the Penes' claim has \$42,000 worth of gold in it.

To extract that gold from the gravel bars in the canyon, the brothers would have to spend more than double the \$42,000, according to the so-called "mineral validity exam" prepared by the BLM.

"There are several orders of magnitude of discrepancy between what they say is there and what we found, but I feel very comfortable our agency did a thorough and objective evaluation of the claim," said Alan Rabinoff, head of BLM's solid-minerals branch in Utah. "What we found is very typical for that area of the Colorado River, and it's just not economically viable."

A popular whitewater-boating venue, Westwater Canyon is considered by many national conservation groups as a prime candidate for federal "wild and scenic river" protection status. The BLM initially withdrew the area from mining activity

in 1975 because of its wilderness potential. But the agency accidentally let the withdrawal lapse in 1982, and the Penes filed the first round of mining claims in 1984, prompting the BLM to impose an emergency withdrawal that continues today.

Until now, the mining claims in Westwater Canyon were legal. But with the March 9 conclusion that the claim cannot be "proved" because not enough valuable minerals exist, BLM officials have issued a complaint against the brothers that their claim is invalid. The miners have 30 days to appeal to an administrative law judge.

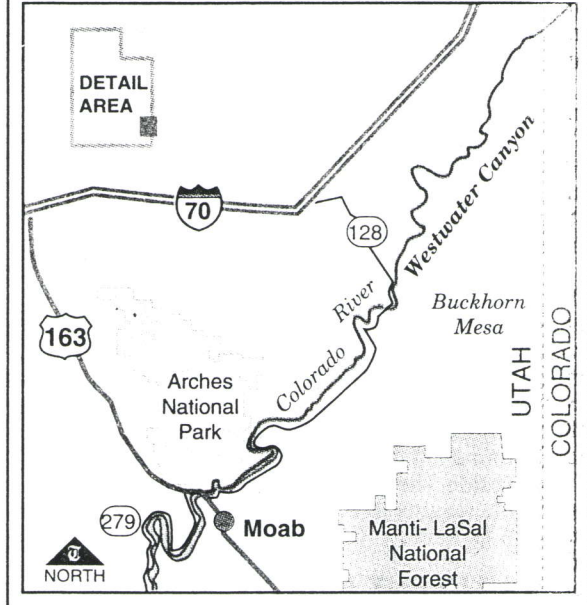
"This is not over, not even close," said Ray Pene of Moab. "Their validity exam is questionable."

Added Ron Pene of Grand Junction, Colo.: "I'm presently evaluating their exam, but I'm definitely not going to accept their decision as it stands. The truth has not come out

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Westwater Wrangle

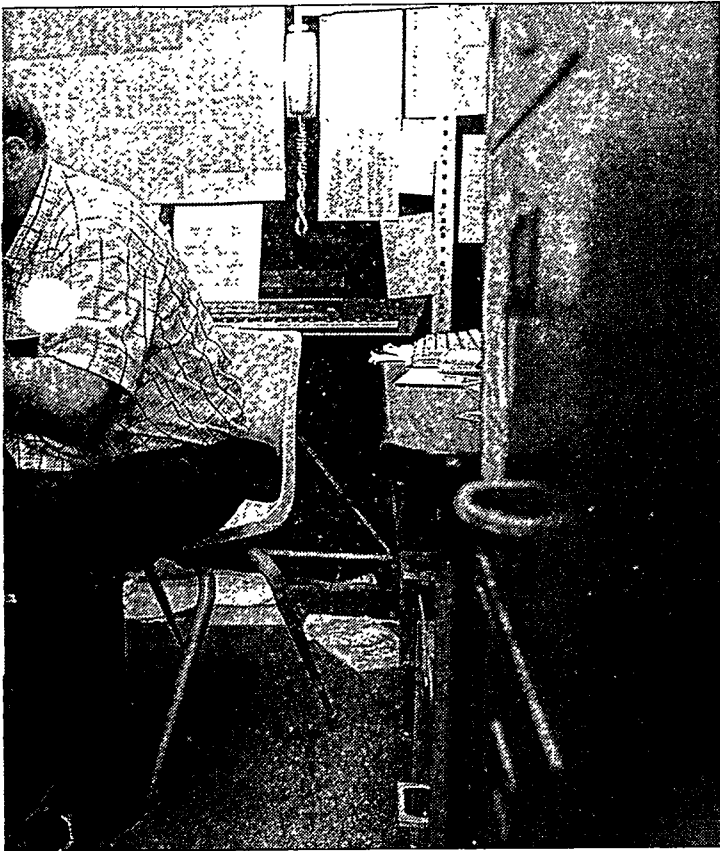
A new Bureau of Land Management study says the gold claims staked by two brothers in scenic Westwater Canyon are not worth the millions the miners say they are. The BLM has declared the claims invalid because mining would not be economically viable.



The Salt Lake Tribune

Bar Wonders How to Rein In

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Leah Hogsten/The Salt Lake Tribune

BLM Tells Brothers To Beat It

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yet."

The miners have long complained that the BLM is attempting to drive them off their claims illegally and in response to pressure from environmentalists. They have said if the BLM wants to prevent mining in Westwater, the agency must "buy out" their claim, which they believe is worth millions.

Under the 1872 Hardrock Mining Act, which governs mineral extraction on public lands, any citizen has the ability to stake a mining claim based on the discovery of a "locatable" mineral, such as gold, silver or platinum. They then are allowed to develop the claim after meeting certain legal requirements, including proof that the claim is economically viable. BLM has the authority to investigate the validity of mining claims at any time.

And the Westwater investigation concludes while there is indeed some fine-grained gold in the 960-acre claim, the amount is

so small there is no chance a mine would turn a profit.

"We put this to the prudent-man test, meaning would a prudent man or woman invest their time, energy or dollars with a reasonable expectation they will turn a profit," said Kate Kitchell, the Moab BLM Field Office manager who ordered the exam 20 months ago in the hopes of resolving the longstanding dispute. "This exam shows not even a wildly imprudent person could expect a profit on the claim."

The BLM determined that Westwater mining costs — excluding taxes, insurance and other fees — would run \$5.50 per loose cubic yard of material and revenues would be \$2.50 per loose cubic yard.

Last spring, the BLM accused the Penes of conducting an unauthorized surface disturbance on the claims, and Kitchell said the disturbed area has yet to be restored by the miners. The BLM also recently ordered the brothers to remove an unauthorized travel trailer from the claim site.

The Pene brothers are not the first to seek their fortunes in Westwater Canyon, where flecks of color in the sandy gravel have enticed other miners to file claims. But because there never was enough gold or silver to make mining worthwhile, the previous claimants let their rights expire.

At times, the Pene brothers have hinted they intend to use a lower-cost method other than the traditional placer mining to recover the Westwater gold. But BLM officials said the miners never detailed those plans, so the agency's examination stuck to proven methods of recovery.

"We tend not to go with the black-box ideas," said Rabinoff. "If they believe they have a way of extracting that gold at a profit, including using technology that has not been proven, then they can make that case to the administrative law judge."

The Westwater validity exam was one of the most extensive ever done by the BLM in Utah, with staffers traveling to the canyon to collect more than 70 geological samples. Each sample was mechanically concentrated from 300 to 500 pounds of gravel, which BLM employees carried in backpacks and harnesses to an industry-standard placer mining unit.

Although the BLM originally estimated the cost of the validity exam would be \$10,000, Kitchell put the final price tag much higher.

"We had at least one person working on this full-time for a year and a half, and it was an incredibly labor-intensive project," she said. "The cost of this exam was higher than the \$42,000 worth of gold in the claim."

Fund-Raiser Set For Peterson School

"Scattering Starshine," a fund-raiser to help buy new equipment for the Dan W. Peterson Elementary School in American Fork, will be held Wednesday through Saturday at the Lehi Armory, 348 E. Main.

The Original Blue Goose

Bar Wonders How to Rein In Jerk Lawyers

"Once he had me through the wringer, I wasn't willing to work with him," Chiara recalled. "It ruined any chance of a settlement."

The opposing lawyer again threatened Chiara, saying he was "making a big mistake." But

of 5,000, is still small enough so that the climate of etiquette remains warmer than in other states.

"There's more familiarity," said Utah Bar President Charlotte Miller. "I'll see an attorney over and over. There's a disincentive to

gs with Adam Henrie, 18, a blind student at Peterson years ago, Henrie has learned to speak in sentences.

se the Soto twins, for many e children, education is not reading and writing, but about becoming as independent as possible. For many, als are to be able to dress ed themselves, get out of a hair by themselves, learn ay skills like going to the y store or riding the bus. y year, enrollment inches d the handicaps at the : seem more severe, likely e more children survive senedical conditions, where